

SENATE BILL REPORT

SB 5412

As Reported by Senate Committee On:
Health & Long Term Care, February 3, 2021
Behavioral Health Subcommittee to Health & Long Term Care, February 12, 2021

Title: An act relating to facilitating supportive relationships with family and significant individuals within the behavioral health system.

Brief Description: Facilitating supportive relationships with family and significant individuals within the behavioral health system.

Sponsors: Senators Warnick, Holy and Keiser.

Brief History:

Committee Activity: Health & Long Term Care: 2/03/21 [w/oRec-BH].
Behavioral Health Subcommittee to Health & Long Term Care: 2/05/21, 2/12/21 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Requires the Health Care Authority (HCA) and Department of Social and Health Services (DSHS) to manage their oversight functions in a manner that is mindful of protecting significant relationships in the lives of behavioral health system clients.
- Requires HCA and DSHS to review their policies in consultation with stakeholders, family members, and peers to eliminate policies that undermine the health of a family or discourage family engagement.

SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5412 be substituted therefor, and the substitute bill do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Wagoner, Ranking Member; Frockt, Nobles and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Dhingra, Chair.

Staff: Kevin Black (786-7747)

Background: The Health Care Authority (HCA) is the state behavioral health authority and manages the community behavioral health system for clients enrolled in the Medicaid program, called Apple Health in Washington. Through contracts, HCA manages a statewide behavioral health crisis system which investigates emergencies related to behavioral health, stabilizes clients, and arranges for any necessary follow-up care. Through contract, HCA manages a range of behavioral health programs for children, including wraparound programs, short-term inpatient and outpatient treatment, and long-term facility-based inpatient treatment for periods of six months or more.

The Department of Social and Health Services (DSHS) operates three state hospitals for psychiatric treatment: Western State Hospital, Eastern State Hospital, and the Child Study & Treatment Center. These hospitals treat patients from around the state, primarily those who are committed by a court for long-term mental health treatment for a period of 90 days or more. The Child Study & Treatment Center, which treats patients aged 6 through 17, has a family therapy program which uses evidence-based treatment principles to assist family members in the process of building, re-establishing, or strengthening healthy relationships.

Summary of Bill (First Substitute): HCA is required to conduct oversight of the community behavioral health system in a manner that is aware of, nurtures, and protects significant relationships in the life of behavioral health system clients.

DSHS is required to administer state hospitals in a manner that is aware of, nurtures, and protects significant relationships in the life of state hospital patients.

HCA and DSHS must conduct a review of their policies related to allowing and facilitating family engagement. They must consult with stakeholders, family members, and peers, and identify and eliminate policies that undermine integrity and health of the family, or discourage family engagement. These reviews must be completed by June 30, 2022. The agencies must notify the Governor and Legislature by letter of the completion and outcomes of the review.

HCA and DSHS are required to consider certain principles when administering programs and making policy, including:

- a client or patient's right to have a caring compassionate family member involved in or advocating for their treatment;
- encouraging parents to be engaged with their children's behavioral health care;
- avoiding unnecessary trauma to families and avoiding situations involving severance

- of parental rights;
- the need for whole family treatment to build, reestablish, and strengthen healthy relationships;
- that strong family-like relationships may arise through nonblood relationships and personal development continues past age 18;
- the need to closely monitor and frequently evaluate medication use for children with expert support provided to parents; and
- employing the legal system only as a last resort.

This act may be known as the Family Care Act.

EFFECT OF CHANGES MADE BY BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Removes definitions of parent, family, and child.
- Requires HCA and DSHS to consider that strong family-like relationships may arise through nonblood relationships and personal development continues past age 18.

Appropriation: None.

Fiscal Note: Requested on February 1, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: We need more behavioral health care, systems, and facilities, especially for our children and youth. We hear stories every day about families who need help. The message needs to get out that we need to involve our families. There is no mandate in this bill, I am trying to fix a gap in making connections. The welfare of the whole family needs to be considered in the treatment of children with mental illness. My child discharged from the Child Study and Treatment Center and needed my advocacy to fix a glitch in his community treatment. Our family has been given wraparound services which is vital. A child in treatment is a family in treatment. Families are strong, and committed to continue work no one else can do. Families have been harmed by our behavioral system that prioritizes individual rights over family health. Families are the core sustaining support system for dependent children. HCA does not include healthy families in its client rights statements. Families are being threatened with child abandonment if they do not agree to take their children home to situations which are unsafe. Threatening child neglect findings threatens the medical license of parents who are employed in caregiving professions. These circumstances disproportionately affect families whose members are black, indigenous, or persons of color.

CON: The definitions of family and child are far too broad and will have unintended consequences. Using terminology which refers to persons with guardianships as children takes away their dignity and self determination, and could make them more vulnerable. The burden of revoking consent should not be placed on the individual.

OTHER: We agree with many of the values in this bill and support policies which allow families to be involved in care planning and treatment. Patient confidentiality is the bedrock upon which a trusting therapeutic relationship is built. Balancing these interests is complex. A perceived lack of privacy may deter some youth from seeking services. There are some bad family situations; the law has to take them into account with the good ones. We want to see clinical judgment used in appropriate ways. We should not create a fourth standard for disclosing family health records. In some cases taking a family-centered approach may not be therapeutic.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Peggy Dolane; Penny Quist.

CON: Darya Farivar, Disability Rights Washington.

OTHER: Jaclyn Greenberg, Washington State Hospital Association; Katie Kolan, Washington State Psychiatric Association; Melanie Smith, NAMI Washington.

Persons Signed In To Testify But Not Testifying: No one.